

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**FILED**

OCT 30 2009

CLERK'S OFFICE
U.S. DISTRICT COURT
ANN ARBOR, MI

DAVID REUBEN SMITH,

Plaintiff,

v.

CASE NO. 2:09-CV-14097
HONORABLE PAUL D. BORMAN

BARRY DAVIS,

Defendant.

**ORDER TRANSFERRING CASE TO THE UNITED STATES
DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN**

Before the Court is Plaintiff David Reuben Smith's pro se civil right complaint brought pursuant to 42 U.S.C. § 1983. Plaintiff Smith, a Michigan prisoner currently confined at the Newberry Correctional Facility in Newberry, Michigan, alleges that he was injured while lifting weights at that facility. He names the warden, Barry Davis, as the sole defendant in this action.

The proper venue for civil actions in which jurisdiction is not based on diversity of citizenship is the judicial district where: (1) any defendant resides if all defendants reside in the same state; (2) a substantial part of the events or omissions giving rise to the claim occurred or a substantial part of the property in question is situated; or (3) any defendant may be found if there is no other district in which plaintiff may bring the action. 28 U.S.C. § 1331(b). Public officials "reside" in the county where they serve. *See O'Neill v. Battisti*, 472 F.2d 789, 791 (6th Cir. 1972).

Pursuant to 28 U.S.C. § 1404(a), a district court may transfer a civil action to any other district where it might have been brought for the convenience of the parties and witnesses, in the interest of justice.

Having reviewed the complaint, the Court finds that the United States District Court for the Western District of Michigan is a more appropriate forum for this action. The events giving rise to the complaint occurred at the Newberry Correctional Facility which is located in Luce County and both Plaintiff Smith and Defendant Davis reside in Luce County for purposes of the present complaint. Luce County lies in the Northern Division of the Western District of Michigan. *See* 28 U.S.C. § 102(b).

Accordingly, the Court **ORDERS** the Clerk of the Court to transfer this case to the United States District Court for the Western District of Michigan. 28 U.S.C. §§ 1391(b) and 1404(a).

s/ R. Steven Whalen

R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: October 30, 2009